

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

JENNIFER C. DAUGHERTY,)	
)	
Plaintiff,)	Case No. 2:06MC00013
)	
v.)	OPINION AND ORDER
)	
JO ANNE B. BARNHART,)	By: James P. Jones
COMMISSIONER OF)	Chief United States District Judge
SOCIAL SECURITY,)	
)	
Defendant.)	

H. Ronnie Montgomery, Jonesville, Virginia, for Plaintiff.

The plaintiff has filed an application to proceed in forma pauperis in this social security disability case, pursuant to 28 U.S.C.A. § 1915 (West Supp. 2006). The magistrate judge, to whom such applications are referred, denied the application “based upon the plaintiff’s failure to state the amount of equity owned in real property.” (Order, Dec. 12, 2006.) The plaintiff has filed objections to the magistrate’s judge’s order which objections are now before me for consideration. I will review the application de novo.

In her supporting declaration, the plaintiff asserts that she has received no money from any source in the last twelve months, that she has \$150 in a checking account, and that she owns the following described property: “Buying home

approximately \$60,000.00[;] Car approximately \$3,000.00[; and] Van approximately \$800.00." (Application ¶ 5.) She also states that she has no dependents.

While a litigant need not be destitute in order to be entitled to proceed under § 1915 without prepayment of fees, *see Potnick v. Eastern State Hosp.*, 701 F.2d 243, 244 (2d Cir. 1983), the value of the property listed, with no indication of any unusual expenses or other extreme circumstances, is an insufficient basis to grant such an application. It is correct, as the plaintiff asserts, that the application form supplied by the court does not require the applicant to state the amount of equity owned in property. Absent any such indication, however, the court must assume that the plaintiff has sufficient clear ownership in a \$60,000 home to be able to afford the cost of filing this action.

For the foregoing reasons, it is **ORDERED** that the objections are overruled and the application is denied without prejudice to the submission within 30 days of additional information in support of the application.

ENTER: December 20, 2006

/s/ JAMES P. JONES
Chief United States District Judge